

shall be supported by reliable and probative evidence. The decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704 unless an appeal is made pursuant to the procedures set forth in §§ 2570.169 through 2570.171 of this subpart.

**§ 2570.169 Review by the Secretary.**

(a) The Secretary may review a decision of an administrative law judge. Such a review may occur only when a party files a notice of appeal from a decision of an administrative law judge within twenty (20) days of the issuance of such decision. In all other cases, the decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704.

(b) A notice of appeal to the Secretary shall state with specificity the issue(s) in the decision of the administrative law judge on which the party is seeking review. Such notice of appeal must be served on all parties of record.

(c) Upon receipt of a notice of appeal, the Secretary shall request the Chief Administrative Law Judge to submit to him or her a copy of the entire record before the administrative law judge.

**§ 2570.170 Scope of review.**

The review of the Secretary shall not be a de novo proceeding but rather a review of the record established before the administrative law judge. There shall be no opportunity for oral argument.

**§ 2570.171 Procedures for review by the Secretary.**

(a) Upon receipt of the notice of appeal, the Secretary shall establish a briefing schedule which shall be served on all parties of record. Upon motion of one or more of the parties, the Secretary may, in his or her discretion, permit the submission of reply briefs.

(b) The Secretary shall issue a decision as promptly as possible after receipt of the briefs of the parties. The Secretary may affirm, modify, or set aside, in whole or in part, the decision on appeal and shall issue a statement of reasons and bases for the action(s) taken. Such decision by the Secretary

shall be final agency action within the meaning of 5 U.S.C. 704.

**PART 2575—ADJUSTMENT OF CIVIL PENALTIES UNDER ERISA TITLE I**

**Subpart A—Adjustment of Civil Penalties Under ERISA Title I**

Sec.

2575.100 In general.

2575.209b-1 Adjusted civil penalty under section 209(b).

2575.502c-1 Adjusted civil penalty under section 502(c)(1).

2575.502c-2 Adjusted civil penalty under section 502(c)(2).

2575.502c-3 Adjusted civil penalty under section 502(c)(3).

2575.502c-5 Adjusted civil penalty under section 502(c)(5).

2575.502c-6 Adjusted civil penalty under section 502(c)(6).

**Subparts B-D [Reserved]**

AUTHORITY: 29 U.S.C. 1135; 28 U.S.C. 2461 note; Secretary of Labor's Order 1-2003, 68 FR 5374 (Feb. 3, 2003).

SOURCE: 64 FR 42246, Aug. 3, 1999, unless otherwise noted.

**Subpart A—Adjustment of Civil Penalties Under ERISA Title I**

SOURCE: 62 FR 40699, July 29, 1997, unless otherwise noted. Redesignated at 64 FR 42246, Aug. 3, 1999.

**§ 2575.100 In general.**

Section 31001(s) of the Debt Collection Improvement Act of 1996 (the Act, Public Law 104-134, 110 Stat. 1321-373) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act, Public Law 101-410, 104 Stat. 890) to require generally that the head of each Federal agency adjust the civil monetary penalties subject to its jurisdiction for inflation within 180 days after enactment of the Act and at least once every four years thereafter.

[68 FR 2878, Jan. 22, 2003]

**§ 2575.209b-1 Adjusted civil penalty under section 209(b).**

In accordance with the requirements of the 1990 Act, as amended, the amount of the civil monetary penalty

#### **§ 2575.502c-1**

established by section 209(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$10 for each employee to \$11 for each employee. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### **§ 2575.502c-1 Adjusted civil penalty under section 502(c)(1).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### **§ 2575.502c-2 Adjusted civil penalty under section 502(c)(2).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1000 a day to \$1100 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### **§ 2575.502c-3 Adjusted civil penalty under section 502(c)(3).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### **§ 2575.502c-5 Adjusted civil penalty under section 502(c)(5).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(5) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1,000 a day to \$1,100 a day. This ad-

#### **29 CFR Ch. XXV (7-1-10 Edition)**

justed penalty applies only to violations occurring after March 24, 2003.

[68 FR 2879, Jan. 22, 2003]

#### **§ 2575.502c-6 Adjusted civil penalty under section 502(c)(6).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(6) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day but in no event in excess of \$1,000 per request to \$110 a day but in no event in excess of \$1,100 per request. This adjusted penalty applies only to violations occurring after March 24, 2003.

[68 FR 2879, Jan. 22, 2003]

#### **Subparts B-D [Reserved]**

### **PART 2578—RULES AND REGULATIONS FOR ABANDONED PLANS**

#### **Sec.**

2578.1 Termination of abandoned individual account plans.

AUTHORITY: 29 U.S.C. 1135; 1104(a); 1103(d)(1).

#### **§ 2578.1 Termination of abandoned individual account plans.**

(a) *General.* The purpose of this part is to establish standards for the termination and winding up of an individual account plan (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act)) with respect to which a qualified termination administrator (as defined in paragraph (g) of this section) has determined there is no responsible plan sponsor or plan administrator within the meaning of section 3(16)(B) and (A) of the Act, respectively, to perform such acts.

(b) *Finding of abandonment.* (1) A qualified termination administrator may find an individual account plan to be abandoned when:

(i) Either: (A) No contributions to, or distributions from, the plan have been made for a period of at least 12 consecutive months immediately preceding the date on which the determination is being made; or